

1                                   A bill to be entitled  
2           An act relating to communications; amending s.  
3           364.051, F.S., relating to price regulation;  
4           allowing a telecommunications company to  
5           publicly publish price lists for nonbasic  
6           services; providing guidelines for such  
7           publication; allowing 1 day's notice for price  
8           changes to nonbasic services; deleting a  
9           company's option to elect that its basic  
10          services be treated as nonbasic services;  
11          requiring a company to request that the Public  
12          Service Commission lessen its service quality  
13          regulation; providing criteria for granting a  
14          petition to change regulatory treatment of  
15          retail services; amending s. 364.025, F.S.;  
16          providing definitions; providing that a local  
17          exchange telecommunications company obligated  
18          to serve as the carrier of last resort is not  
19          obligated to provide basic local  
20          telecommunications service to customers in a  
21          multitenant business or residential property  
22          under certain circumstances; requiring the  
23          local exchange telecommunications company to  
24          notify the Public Service Commission when it is  
25          relieved of the obligation to provide service;  
26          providing for the local exchange  
27          telecommunications company to request a waiver  
28          of its carrier of last resort obligation from  
29          the commission; providing for carrier of last  
30          resort obligation to apply when specified  
31          conditions cease to exist; providing for effect

1 of the act on the commission's jurisdiction;  
 2 providing an appropriation; providing an  
 3 effective date.  
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5 Be It Enacted by the Legislature of the State of Florida:  
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7 Section 1. Subsections (5), (6), and (7) of section  
 8 364.051, Florida Statutes, are amended to read:

9 364.051 Price regulation.--

10 (5) NONBASIC SERVICES.--Price regulation of nonbasic  
 11 services shall consist of the following:

12 (a) Each company subject to this section shall, at its  
 13 option, maintain tariffs with the commission or otherwise  
 14 publicly publish ~~containing~~ the terms, conditions, and rates  
 15 for each of its nonbasic services, and may set or change, on 1  
 16 day's ~~15 days'~~ notice, the rate for each of its nonbasic  
 17 services. For a company electing to publicly publish the  
 18 terms, conditions, and rates for each of its nonbasic  
 19 services, the commission may establish guidelines for the  
 20 publication. The guidelines may not require more information  
 21 than what is required to be filed with a tariff. The, ~~except~~  
 22 ~~that a~~ price increase for any nonbasic service category shall  
 23 not exceed 6 percent within a 12-month period until there is  
 24 another provider providing local telecommunications service in  
 25 an exchange area at which time the price for any nonbasic  
 26 service category may be increased in an amount not to exceed  
 27 20 percent within a 12-month period, and the rate shall be  
 28 presumptively valid. However, for purposes of this  
 29 subsection, the prices of:

30 1. A voice-grade, flat-rate, multi-line business local  
 31 exchange service, including multiple individual lines, centrex

1 lines, private branch exchange trunks, and any associated  
2 hunting services, that provides dial tone and local usage  
3 necessary to place a call within a local exchange calling  
4 area; and

5 2. Telecommunications services provided under contract  
6 service arrangements to the SUNCOM Network, as defined in  
7 chapter 282,

8  
9 shall be capped at the rates in effect on July 1, 1995, and  
10 such rates shall not be increased prior to January 1, 2000;  
11 provided, however, that a petition to increase such rates may  
12 be filed pursuant to subsection (4) utilizing the standards  
13 set forth therein. There shall be a flat-rate pricing option  
14 for multi-line business local exchange service, and mandatory  
15 measured service for multi-line business local exchange  
16 service shall not be imposed. Nothing contained in this  
17 section shall prevent the local exchange telecommunications  
18 company from meeting offerings by any competitive provider of  
19 the same, or functionally equivalent, nonbasic services in a  
20 specific geographic market or to a specific customer by  
21 deaveraging the price of any nonbasic service, packaging  
22 nonbasic services together or with basic services, using  
23 volume discounts and term discounts, and offering individual  
24 contracts. However, the local exchange telecommunications  
25 company shall not engage in any anticompetitive act or  
26 practice, nor unreasonably discriminate among similarly  
27 situated customers.

28 (b) The commission shall have continuing regulatory  
29 oversight of nonbasic services for purposes of ensuring  
30 resolution of service complaints, preventing  
31 cross-subsidization of nonbasic services with revenues from

1 basic services, and ensuring that all providers are treated  
2 fairly in the telecommunications market. The cost standard  
3 for determining cross-subsidization is whether the total  
4 revenue from a nonbasic service is less than the total  
5 long-run incremental cost of the service. Total long-run  
6 incremental cost means service-specific volume and  
7 nonvolume-sensitive costs.

8 (c) The price charged to a consumer for a nonbasic  
9 service shall cover the direct costs of providing the service  
10 and shall, to the extent a cost is not included in the direct  
11 cost, include as an imputed cost the price charged by the  
12 company to competitors for any monopoly component used by a  
13 competitor in the provision of its same or functionally  
14 equivalent service.

15 (6) After a local exchange telecommunications company  
16 that has more than 1 million access lines in service has  
17 reduced its intrastate switched network access rates to  
18 parity, as defined in s. 364.164(5), the local exchange  
19 telecommunications company's ~~basic local telecommunications~~  
20 ~~service may, at the company's election, be subject to the same~~  
21 ~~regulatory treatment as its nonbasic services. The company's~~  
22 retail service quality requirements that are not already equal  
23 to the service quality requirements imposed upon the  
24 competitive local exchange telecommunications companies shall  
25 at the company's request to the commission ~~thereafter~~ be no  
26 greater than those imposed upon competitive local exchange  
27 telecommunications companies unless the commission, within 120  
28 days after the company's request ~~election~~, determines  
29 otherwise. In such event, the commission may grant some  
30 reductions in service quality requirements in some or all of  
31 the company's local calling areas. The commission may not

1 impose retail service quality requirements on competitive  
2 local exchange telecommunications companies greater than those  
3 existing on January 1, 2003.

4 (7) After ~~If~~ a local exchange telecommunications  
5 company that has more than 1 million access lines in service  
6 has reduced its intrastate switched network access rates to  
7 parity, as defined in s. 364.164(5) elects, pursuant to  
8 ~~subsection (6), to subject its retail basic local~~  
9 ~~telecommunications services to the same regulatory treatment~~  
10 ~~as its nonbasic services,~~ the local exchange  
11 telecommunications company may petition the commission for  
12 regulatory treatment of its retail services at a level no  
13 greater than that imposed by the commission upon competitive  
14 local exchange telecommunications companies. The local  
15 exchange telecommunications company shall:

16 (a) Show that granting the petition is in the public  
17 interest;

18 (b) Demonstrate that the competition faced by the  
19 company is sufficient and sustainable to allow such  
20 competition to supplant regulation by the commission; and

21 (c) ~~(b)~~ Reduce its intrastate switched network access  
22 rates to its local reciprocal interconnection rate upon the  
23 grant of the petition.

24  
25 The commission shall act upon such a petition within 9 months  
26 after its filing with the commission. ~~In making its~~  
27 ~~determination to either grant or deny the petition, the~~  
28 ~~commission shall determine the extent to which the level of~~  
29 ~~competition faced by the local exchange telecommunications~~  
30 ~~company permits and will continue to permit the company to~~  
31 ~~have its retail services regulated no differently than the~~

1 ~~competitive local exchange telecommunications companies are~~  
2 ~~then being regulated.~~ The commission may not increase the  
3 level of regulation for competitive local exchange  
4 telecommunications companies to a level greater than that  
5 which exists on the date the local exchange telecommunications  
6 company files its petition.

7 Section 2. Subsection (6) is added to section 364.025,  
8 Florida Statutes, to read:

9 364.025 Universal service.--

10 (6)(a) For purposes of this subsection:

11 1. "Owner or developer" means the owner or developer  
12 of a multitenant business or residential property, any  
13 condominium association or homeowners' association thereof, or  
14 any other person or entity having ownership in or control over  
15 the property.

16 2. "Communications service provider" means any person  
17 or entity providing communications services, any person or  
18 entity allowing another person or entity to use its  
19 communications facilities to provide communications services,  
20 or any person or entity securing rights to select  
21 communications service providers for a property owner or  
22 developer.

23 3. "Communications service" means voice service or  
24 voice replacement service through the use of any technology.

25 (b) A local exchange telecommunications company  
26 obligated by this section to serve as the carrier of last  
27 resort is not obligated to provide basic local  
28 telecommunications service to any customers in a multitenant  
29 business or residential property, including, but not limited  
30 to, apartments, condominiums, subdivisions, office buildings,  
31 or office parks, when the owner or developer thereof:

1       1. Permits only one communications service provider to  
2 install its communications service-related facilities or  
3 equipment, to the exclusion of the local exchange  
4 telecommunications company, during the construction phase of  
5 the property;

6       2. Accepts or agrees to accept incentives or rewards  
7 from a communications service provider that are contingent  
8 upon the provision of any or all communications services by  
9 one or more communications service providers to the exclusion  
10 of the local exchange telecommunications company;

11       3. Collects from the occupants or residents of the  
12 property charges for the provision of any communications  
13 service, provided by a communications service provider other  
14 than the local exchange telecommunications company, to the  
15 occupants or residents in any manner, including, but not  
16 limited to, collection through rent, fees, or dues; or

17       4. Enters into an agreement with the communications  
18 service provider which grants incentives or rewards to such  
19 owner or developer contingent upon restriction or limitation  
20 of the local exchange telecommunications company's access to  
21 the property.

22       (c) The local exchange telecommunications company  
23 relieved of its carrier-of-last-resort obligation to provide  
24 basic local telecommunications service to the occupants or  
25 residents of a multitenant business or residential property  
26 pursuant to paragraph (b) shall notify the commission of that  
27 fact in a timely manner.

28       (d) A local exchange telecommunications company that  
29 is not automatically relieved of its carrier-of-last-resort  
30 obligation pursuant to subparagraphs (b)1.-4. may seek a  
31 waiver of its carrier-of-last-resort obligation from the

1 commission for good cause shown based on the facts and  
2 circumstances of provision of service to the multitenant  
3 business or residential property. Upon petition for such  
4 relief, notice shall be given by the company at the same time  
5 to the relevant building owner or developer. The commission  
6 shall have 90 days to act on the petition. The commission  
7 shall implement this paragraph through rulemaking.

8 (e) If all conditions described in subparagraphs  
9 (b)1.-4. cease to exist at a property, the owner or developer  
10 requests in writing that the local exchange telecommunications  
11 company make service available to customers at the property  
12 and confirms in writing that all conditions described in  
13 subparagraphs (b)1.-4. have ceased to exist at the property  
14 and the owner or developer has not arranged and does not  
15 intend to arrange with another communications service provider  
16 to make communications service available to customers at the  
17 property, the carrier-of-last-resort obligation under this  
18 section shall again apply to the local exchange  
19 telecommunications company at the property; however, the local  
20 exchange telecommunications company may require that the owner  
21 or developer pay to the company in advance a reasonable fee to  
22 recover costs that exceed the costs that would have been  
23 incurred to construct or acquire facilities to serve customers  
24 at the property initially, and the company shall have a  
25 reasonable period of time following the request from the owner  
26 or developer to make arrangements for service availability. If  
27 any conditions described in subparagraphs (b)1.-4. again exist  
28 at the property, paragraph (b) shall again apply.

29 (f) This subsection does not affect the limitations on  
30 the jurisdiction of the commission imposed by s. 364.011 or s.  
31 364.013.



1           Section 3. The sum of \$800,000 of recurring funds from  
2 the General Revenue Fund is appropriated to the Office of  
3 Public Counsel for the 2006-2007 fiscal year.

4           Section 4. This act shall take effect upon becoming a  
5 law.

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